

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16150 of Daphne Gemmill, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now exceeds the maximum lot occupancy requirements and will increase the nonconformity [Paragraph 2001.3(a) and (c)], and a variance from the lot occupancy requirements (Subsection 403.2) to construct a two-story rear addition to a single-family row dwelling in an R-4 District at premises 215 10th Street, S.E. (Square 944, Lot 32).

HEARING DATE: September 18, 1996
DECISION DATE: October 2, 1996

ORDER

SUMMARY OF EVIDENCE:

1. The subject site is located on the west side of 10th Street, S.E., between Independence Avenue and C Street, S.E. and consists of one lot (Lot 32) which contains 2,175 square feet of land area.

2. The site is improved with a two-story frame house built in 1890 and a garage built sometime in the 1940s. The site abuts a 20-foot wide public alley to the rear.

3. The area surrounding the site is characterized primarily by single-family rowhouses built at the turn of the century. Many of the properties, especially in Square 944, have garages or carriage houses.

4. The applicant is requesting area variances from Paragraphs 2001.3(a) and (c) and Subsection 403.2 to allow an addition to a nonconforming structure that exceeds the maximum lot occupancy requirements and will increase the structure's nonconformity. Paragraph 2001.3(a) and (c) specify that enlargements or additions may be made to a structure, provided that the following requirements shall be met:

- (a) The structure shall conform to percentage of lot occupancy requirements; and
- (b) The addition or enlargements themselves shall not increase or extend any existing nonconforming aspect of the structure and addition combined.

5. The applicant is proposing to build a two-story addition to an existing frame house to increase the size of the existing kitchen by 84 square feet.

6. The applicant testified that the property's existing foot-print is 64 percent, which is over the maximum permitted lot occupancy of 60 percent by four percent. The applicant's proposed renovation, addition, and atrium to the kitchen, will bring the lot occupancy to 70 percent.

7. The applicant testified that her lot has an exceptionally large garage which prevents her from reaching a house size that normally would be attained by the other houses in the block.

8. Several neighbors of the applicant wrote in support of the application. They expressed the view that the applicant's proposals are consistent with current residential zoning plans for the neighborhood and are the type of renovations that are essential to keep Capitol Hill's homes modern, while preserving the historical integrity of the neighborhood. The neighbors said further that no negative aesthetic effect would result from the applicant's proposals.

9. Advisory Neighborhood Commission (ANC) 6B recommendation of September 17, 1996, supported the application.

10. The Office of Planning (OP) by report dated September 11, 1996, recommended denial of the application. OP concluded that the property is similar to others in the area regarding size, topography and improvements, and that the only difference is that the main structure on the subject site is of framed construction rather than masonry construction. OP is of the opinion that the property is not affected by any extraordinary or exceptional situation or condition that would justify the granting of the requested relief.

11. Mr. Lyle R. Schauer, representing the Capitol Hill Restoration Society (CHRS), testified in opposition to the application. Mr. Schauer said that the CHRS has never favored the granting of variances in order to fill in "dog legs" that is, the rear wing and the wall of the house on the next lot. Mr. Schauer said further that granting the variances requested by the applicant will set a precedent for filling in the "dog legs" of quite a few other houses on Capitol Hill, and would impair the intent, purpose and integrity of the Zoning Regulations in the R-4 District.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The Board finds that the structure existed before 1958 when the current Zoning Regulations became effective.

2. The addition will not block the light and air of neighbors to any substantial degree.

3. The nonconforming nature of the structure would necessitate variance relief for any addition to the structure.

4. The applicant's lot has an exceptionally large garage which prevents her from reaching a house size that would normally be attained by other houses in the block.

5. The garage is not easily modifiable and to obtain a permit for demolition or alteration is remote.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and evidence of record, the Board concludes that the applicant is seeking variances: a) to allow an addition to an existing nonconforming structure, b) a variance from the lot occupancy requirements to construct a two-story rear addition to a single-family row house in an R-4 District.

Granting such variances requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional, narrowness, shallowness, shape or topographical condition. Further, the Board must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has met the burden of proof. The subject property was constructed prior to the enactment of the current Zoning Regulations. The applicant has demonstrated an exceptional condition associated with the property. The applicant has an exceptionally large garage which eats up the lot coverage and which prevents her from having a house size that would normally be attained by other houses in the neighborhood, or bring the house in line with modern living arrangement. Furthermore, the existing nonconformity of the house as to lot occupancy would create a need for variance relief for any enlargement or addition to the house regardless of its size. For these reasons, the Board finds that the size and shape of the lot, combined with the property's existing nonconformity as to lot occupancy, creates an exceptional condition that results in practical difficulties in the strict application of the Zoning Regulations.

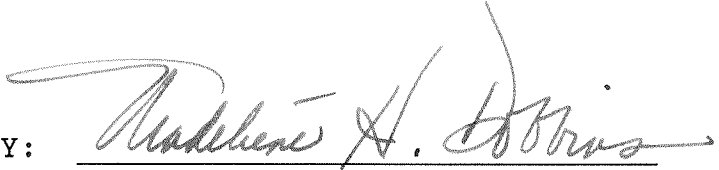
The Board further concludes that the applicant has met the burden of proof that there exists an exceptional or extraordinary condition related to the property which creates an undue hardship for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantially impairing the intent and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board, therefore, **ORDERS** the **APPROVAL** of the application.

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VOTE: 4-1 (Laura M. Richards, Angel F. Clarens, Sheila Cross
Reid, and Howard Croft to grant; Susan Morgan
Hinton opposed the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: MAY 27 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT




BZA APPLICATION NO. 16150

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAY 27 1997 a copy of the order entered on that date in this matter was mailed first class postage prepared to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Ms. Daphne Gemmill
215 10th Street, S.E.
Washington, D.C. 20003

The Chairperson
Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, S.E.
Washington, D.C. 20003

Mr. Lyle R. Schauer
Capitol Hill Restoration Society
1107 Independence Avenue
Washington, D.C. 20003-0264


MADELIENE H. DOBBINS
Director

Date: MAY 27 1997